

MAOHKarC

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
-----x

3 PALANI KARUPAIYAN,

4 Plaintiff,

5 v.

19 Civ. 8814 (KPF)

6 CVS HEALTH CORPORATION, et  
7 al.,

Conference

8 Defendants.

9 -----x  
10 New York, N.Y.  
11 October 24, 2022  
12 3:05 p.m.

13 Before:

14 HON. KATHERINE POLK FAILLA,

15 District Judge

16 APPEARANCES

17 PALANI KARUPAIYAN, Pro Se Plaintiff

18 LITTLER MENDELSON, P.C.  
19 Attorneys for Defendant CVS  
20 BY: MARCY A. GILROY

21 JACKSON LEWIS PC  
22 Attorneys for Defendant APN Consulting  
23 BY: JASON A. ZOLDESSY

24  
25 SOUTHERN DISTRICT REPORTERS, P.C.  
26 (212) 805-0300

MAOHKarC

1 (Case called)

2 MR. KARUPAIYAN: Palani Karupaiyan, plaintiff.

3 THE COURT: Mr. Karupaiyan, let me suggest something,  
4 please, and I'll suggest it to each of you.

5 Please be seated, sir. You're welcome to bring the  
6 microphone closer to you, and because you're using a mask, the  
7 acoustics in this courtroom are not great, for those of you  
8 using masks, just bring the microphone close to you.

9 All right, sir. Are you able hear me?

10 MR. KARUPAIYAN: Yeah, I hear you.

11 THE COURT: And I can hear you now. Thank you very  
12 much.

13 Mr. Zoldessy.

14 MR. ZOLDESSY: Good afternoon, your Honor. Jason  
15 Zoldessy from Jackson Lewis P.C. We're counsel for the APN  
16 defendants in this case.

17 THE COURT: Thank you very much, and good afternoon.

18 MS. GILROY: Good afternoon, your Honor. Marcy  
19 Gilroy, Littler Mendelson, on behalf of CVS defendants.

20 THE COURT: Thank you very much, and good afternoon to  
21 you.

22 This is our post-fact discovery conference, so I  
23 wanted to begin by making sure fact discovery had concluded.

24 Mr. Karupaiyan, have you received the documents or the  
25 materials that you requested from the defendants? Well, I

MAOHKarC

1 should ask a better question.

2 Sir, did you request any documents from anyone at the  
3 back table? Did you request materials about your case?

4 MR. KARUPAIYAN: I requested several set of material,  
5 and they said they will answer me in a month or maybe another  
6 month. They said they will reply me back.

7 THE COURT: I'm sorry. There were things you  
8 requested that they'll give you in a month or so?

9 MR. KARUPAIYAN: I requested in September 18. Then  
10 recently, a week ago, I got reply from them. They need  
11 additional 30 days.

12 THE COURT: Hold on. I think I'm understanding  
13 something different.

14 They've asked you for materials, and you will be  
15 giving them things?

16 MR. KARUPAIYAN: No, I asked for them to give it to  
17 me.

18 THE COURT: All right. Mr. Zoldessy, may I hear from  
19 you on the issue of discovery.

20 MR. ZOLDESSY: Sure. Yes, your Honor.

21 So both parties -- what I believe Mr. Karupaiyan's  
22 referring to is that after the close of fact discovery,  
23 Mr. Karupaiyan sent us some materials, and included in those  
24 were what he phrases second sets of interrogatories to  
25 defendants. There was one set to my clients and one set to

MAOHKarC

1 Ms. Gilroy's clients. A few days after that Mr. Karupaiyan  
2 sent us an email that he was going to be writing to the Court  
3 seeking leave to serve additional interrogatories or additional  
4 discovery requests beyond that provided by the Federal Rules of  
5 Civil Procedure, and he indicated that he was unable to conduct  
6 depositions of defendants. We wrote back to him seeking  
7 clarification as to whether he was referring to the  
8 interrogatories that he had sent us prior, whether he was  
9 seeking to serve additional discovery requests that he had not  
10 yet served.

11 This came up again, I guess, at some point last week  
12 when Mr. Karupaiyan reached out to us about his discovery  
13 requests, and we pointed out that we hadn't heard from him  
14 about what he was seeking to serve or what he was looking for  
15 from us. But we did indicate that if it was acceptable to the  
16 Court and if there would be no other discovery requests that  
17 he'd be seeking to serve or depositions he'd be seeking to  
18 conduct, that we could provide responses to these supplemental  
19 requests that he served at the end of discovery within 30 days  
20 of that email that I responded to late last week.

21 THE COURT: And was there a response to that offer?

22 MR. ZOLDESSY: We did not hear from Mr. Karupaiyan  
23 after that.

24 THE COURT: Just one moment, please, sir. I'm going  
25 to speak to you in a moment. I want to understand what

MAOHKarC

1 Mr. Zoldessy said, and then I'll come back to you.

2 Mr. Zoldessy, in your submission to me, you indicated  
3 that there were outstanding requests that you had of  
4 Mr. Karupaiyan. Did you receive those materials?

5 MR. ZOLDESSY: We did, your Honor.

6 THE COURT: OK.

7 MR. ZOLDESSY: I can't speak for Ms. Gilroy, but  
8 Mr. Karupaiyan did send us a bunch of materials subsequent to  
9 the letter that Ms. Gilroy filed on September 15 on behalf of  
10 all defendants.

11 THE COURT: OK. Yes. Thank you.

12 Then those materials that you received after  
13 Ms. Gilroy's letter included, among the materials, actual  
14 requests or interrogatories or requests for production of  
15 documents, or did they simply make reference to new ones  
16 coming?

17 MR. ZOLDESSY: They included both documents from  
18 Mr. Karupaiyan as well as supplemental interrogatories to  
19 defendants. I don't believe there were any supplemental  
20 document requests. I believe it was just interrogatories.

21 MS. GILROY: There were not.

22 THE COURT: Then there was a later indication by email  
23 that Mr. Karupaiyan might seek leave of the Court to file  
24 either additional interrogatories or additional requests for  
25 production of documents or requests to take depositions.

MAOHKarC

1                   MR. ZOLDESSY: The first part of that is accurate. I  
2 believe his email was indicating that he was unable to take  
3 depositions. So he was never -- that was not part of it, but  
4 my understanding was that these requests which he was seeking  
5 to serve would be in lieu of depositions.

6                   THE COURT: OK. I do appreciate that.

7                   MS. GILROY: Where we weren't clear simply is were the  
8 ones that we received of the ones he intended in lieu of  
9 deposition, or were there additional requests that he had that  
10 would be forthcoming?

11                  THE COURT: All right. Am I correct, I thought there  
12 was a Ms. Simonova that entered a limited appearance for  
13 Mr. Karupaiyan? Was she involved with discovery?

14                  MR. ZOLDESSY: Her appearance -- was that question for  
15 me?

16                  THE COURT: Anybody who will answer the question. I'm  
17 sorry, Mr. Zoldessy, and then I'll talk to Mr. Karupaiyan  
18 because we have a lot to talk about.

19                  MR. ZOLDESSY: She appeared for both days of  
20 plaintiff's deposition, made it very clear to us that her  
21 involvement was limited to plaintiff's deposition, and then I  
22 believe she filed with the Court once the deposition was done  
23 that her service had been completed for the case.

24                  THE COURT: Yes.

25                  MR. ZOLDESSY: There's something on PACER from

MAOHKarC

1 probably early September or so.

2 THE COURT: That's what I'm seeing, yes. Thank you.

3 All right. Mr. Zoldessy, before I return to  
4 Mr. Karupaiyan, is there anything that you believe you are owed  
5 from him that I can order the production of? There may be  
6 things that just don't exist.

7 MR. ZOLDESSY: Again, I defer to Ms. Gilroy for her  
8 position, but I think at this point we probably have from  
9 Mr. Karupaiyan anything responsive that would be in existence.  
10 There's no specific requests that we have of him that are  
11 outstanding.

12 THE COURT: Thank you.

13 Ms. Gilroy, I'm going to ask you to hold for a moment.  
14 I do want to talk to Mr. Karupaiyan.

15 Mr. Karupaiyan, you were listening to me speak with  
16 Mr. Zoldessy. Is it correct, sir, that you included some  
17 interrogatories with your production of documents?

18 MR. KARUPAIYAN: I did request from them some  
19 additional documents.

20 THE COURT: Wait. Did you give him originals of those  
21 documents or copies?

22 MR. KARUPAIYAN: I sent the first the set of  
23 interrogatories and production of documents. They respond to  
24 me, and then during the deposition -- I was not able to take  
25 deposition, so I -- I requested a second set of interrogatories

MAOHKarC

1 and second set of production of documents.

2 THE COURT: All right. Now, sir, so your deposition  
3 was taken. Were any other depositions taken during discovery,  
4 sir?

5 MR. KARUPAIYAN: They took me, the APN defendant took  
6 the deposition, and the CVS defendant took the deposition. I  
7 was not able to conduct the deposition.

8 THE COURT: Did you ask at any time of the defense  
9 counsel for -- to schedule a deposition of anyone? Did you  
10 ever ask someone?

11 MR. KARUPAIYAN: I'm not able to do so. I do not ask  
12 them.

13 THE COURT: All right. Is Mr. Zoldessy correct in  
14 understanding that there are certain written discovery requests  
15 that you would serve -- or that you would hope to serve or ask  
16 to serve instead of having a deposition of someone?

17 MR. KARUPAIYAN: I -- I did. They said they will take  
18 another 30 days to respond me. Last week they reply.

19 THE COURT: But what I believe Mr. Zoldessy said is  
20 that he and Ms. Gilroy would be able to respond to your  
21 requests in 30 days, assuming that those requests would be the  
22 end of your discovery. Is that correct?

23 MR. KARUPAIYAN: Yes, yes. Yes, yes.

24 THE COURT: Yes. Have you given to Mr. Zoldessy and  
25 to Ms. Gilroy all of the questions -- or anything that you

MAOHKarC

wanted, the interrogatories and the document requests,  
everything that you wanted answers for, you've given to them?

MR. KARUPAIYAN: Yes, yes, my best. I was not well at  
that time. I prefer the request. I was suffering from the  
COVID.

THE COURT: Yes.

MR. KARUPAIYAN: So I put my best effort to prepare  
the questions in the place of deposition I send them.

THE COURT: So, no, I appreciate it. I'm sure you put  
your best effort into these requests, sir.

So I will understand and defense counsel will  
understand that you would like the answers to those requests  
that you've made of them in the next 30 days, and then that  
will satisfy the discovery that you were seeking from them.

MR. KARUPAIYAN: Yes, yes, yes.

THE COURT: OK. I now understand that. Thank you.

Ms. Gilroy, do you want to follow on? You don't need  
to repeat what Mr. Zoldessy has said to the extent that the  
same thing is true for your client.

MS. GILROY: Sure.

THE COURT: But I would be happy to hear about  
anything else you would like me to know.

MS. GILROY: I don't -- the only thing I think needs  
follow up is I don't think we got any document requests from  
Mr. Karupaiyan in the second -- in the most recent discovery.

MAOHKarC

1 It was simply interrogatories that were served on September 18.

2 THE COURT: It's my mistake for saying document  
3 production requests. I was hearing that.

4 All right. Mr. Karupaiyan, the discovery requests  
5 that you wanted to give to the defendants, you have in fact  
6 given to the defendants, correct?

7 MR. KARUPAIYAN: Yes, yes.

8 THE COURT: Yes. Great. Then I assume you both have  
9 the same requests, but perhaps I'm mistaken.

10 Ms. Gilroy, do you have different?

11 MS. GILROY: Yes, Mr. --

12 THE COURT: There are requests that are specific to  
13 your client and requests that are specific to Ms. Gilroy's  
14 client?

15 MS. GILROY: Yes, your Honor, that's correct.

16 THE COURT: May I understand, Ms. Gilroy, that you  
17 will answer those interrogatories in the next 30 days?

18 MS. GILROY: Yes, your Honor.

19 THE COURT: OK. And, Ms. Gilroy, otherwise do you  
20 have the materials that you expected to receive from  
21 Mr. Karupaiyan in discovery?

22 MS. GILROY: Yes, your Honor, at this point I believe  
23 we do. Mr. Karupaiyan provided additional documents following  
24 the deposition and --

25 THE COURT: I'll ask you to slow down just so I can

MAOHKarC

1 take notes.

2 MS. GILROY: Apologies. He provided additional  
3 documents following his deposition, and those were sent on the  
4 18th of September with these discovery requests. So we do have  
5 those.

6 THE COURT: As I read in the parties' submissions to  
7 me, no one at this time is seeking expert discovery. You have  
8 no expert?

9 MR. KARUPAIYAN: I don't. No, Judge, it's not  
10 affordable for me.

11 THE COURT: No, that's fine.

12 Mr. Zoldessy, no experts, sir?

13 MR. ZOLDESSY: No experts, your Honor.

14 THE COURT: Thank you.

15 Ms. Gilroy?

16 MS. GILROY: No, your Honor, no experts.

17 THE COURT: So my expectation is in, let's say, the  
18 end of November, I'm expecting that discovery's going to be  
19 complete. You will have turned over the materials that -- the  
20 responses to the interrogatories. So then the question becomes  
21 what happens next?

22 Mr. Zoldessy, I thought I understood from Ms. Gilroy's  
23 letter that the parties -- that the defendants were interested  
24 in a motion for summary judgment. Is that correct?

25 MR. ZOLDESSY: That is correct, your Honor.

MAOHKarC

1                   THE COURT: Now, I know -- I believe there was a  
2 settlement conference before Judge Aaron, and I believe that it  
3 did not succeed, and there's nothing to suggest that further  
4 settlement discussions at this time would make sense. So I  
5 guess the next thing to do is a summary judgment motion if the  
6 parties wish to do it.

7                   Again, Mr. Zoldessy, only because you're at my left  
8 and Ms. Gilroy's at my right, I'll hear from you, unless you'd  
9 rather she speak first on the issue of summary judgment  
10 practice.

11                  MR. ZOLDESSY: I'm happy to lead off, your Honor.

12                  THE COURT: Go ahead. All right.

13                  MR. ZOLDESSY: Yes, I think that the submission on  
14 behalf of all defendants in our joint letter last month kind of  
15 had the general terms the grounds for the summary judgment  
16 motion.

17                  We believe that, number one, it's discovery and  
18 deposition of plaintiff has made apparent Mr. Karupaiyan was  
19 not an employee of any of the defendants. Moreover, to the  
20 extent that he was a contractor or even if he was found to be  
21 an employee, we don't believe that there's any basis for  
22 Mr. Karupaiyan's claims of discrimination, harassment, and  
23 retaliation. There's a few facts that Mr. Karupaiyan brought  
24 up and repeated throughout his deposition to support his  
25 claims, but it would be defendant's position that, even if

MAOHKarC

1 credited for purposes of a motion, that that would still be  
2 insufficient as a matter of law to state viable claims of  
3 harassment, discrimination, and retaliation.

4 There's also the --

5 THE COURT: I'm going to ask you to pause for just a  
6 second, please, sir.

7 Let me make sure we both understand what the claims  
8 are that survive. There's a race discrimination claim under  
9 Title VII. There's a race discrimination claim under  
10 Section 1981. There's a race discrimination claim under the  
11 state and city human rights laws. There's an age  
12 discrimination claim. There's a failure to accommodate claim.  
13 There is a hostile work environment claim, and there are  
14 wage-and-hour claims. All of those, you believe, are resolved  
15 because of Mr. Karupaiyan's status as an employee or not  
16 employee of both of your clients'?

17 MR. ZOLDESSY: Your Honor, I would acknowledge that,  
18 at a minimum, under the New York State Human Rights Law, you  
19 can state a viable claim even if you are an independent  
20 contractor or some other nonemployee status, but it would be  
21 defendants' position that even if that were the case, that  
22 Mr. Karupaiyan could still not proceed on his claims.

23 THE COURT: That's what I'd like to understand a  
24 little bit better, right. Is your thought, sir -- and I'll  
25 explain to Mr. Karupaiyan in just a moment -- is your thought

MAOHKarC

1       that, ultimately, you're asking me not to exercise jurisdiction  
2       over those state and city claims, or is it that I can and  
3       should address them on the merits and that they would not  
4       succeed on the merits?

5            MR. ZOLDESSY: That they would not succeed on the  
6       merits.

7            THE COURT: Because he's not an employee?

8            MR. ZOLDESSY: For the purposes of the City Human  
9       Rights Law, there's a broader definition under the City Human  
10      Rights Law.

11           THE COURT: Right.

12           MR. ZOLDESSY: I understand that even if  
13      Mr. Karupaiyan -- the Court found he was not an employee -- our  
14      first argument would be he was not an employee. Even if we  
15      were to lose on that argument and the Court were to find that  
16      Mr. Karupaiyan was an employee of some or all of the  
17      defendants, that nevertheless he cannot state a viable claim of  
18      discrimination, retaliation, or harassment under the New York  
19      City Human Rights Law.

20           THE COURT: What about the battery claim?

21           MR. ZOLDESSY: The battery claim, your Honor, I'm not  
22      sure there's a summary judgment argument to be made on that.  
23      That might be one where we have to -- we defer to the Court as  
24      to whether or not to maintain jurisdiction over that. I can't  
25      say we've exhaustively researched it or that I've exhaustively

MAOHKarC

1 conferred with Ms. Gilroy over it, though I do recognize that  
2 there appears that there could be this factual dispute from  
3 Mr. Karupaiyan's testimony that he relies upon to support the  
4 battery claim.

5 THE COURT: I understand that.

6 To be clear -- Mr. Karupaiyan, I'm going to explain  
7 this to you as well -- part of the reason I have discussions  
8 like this, and we had this in connection with the motion to  
9 dismiss, is I'd like to get a sense of what the arguments are  
10 in the motion, and if I think that they are not going to  
11 succeed, I might want to tell you not to bring them.

12 But I guess, Mr. Zoldessy, I do understand the  
13 arguments that you're making.

14 All right. What else should I know, sir? And then  
15 I'll turn to -- Ms. Gilroy, hopefully. Do you have -- off the  
16 record.

17 (Discussion off the record)

18 THE COURT: All right. Then, Ms. Gilroy, may I hear  
19 from you, please, about the summary judgment arguments. And  
20 you've just heard my discussion with Mr. Zoldessy. Are you  
21 agreeing?

22 MS. GILROY: I am, your Honor. I don't believe  
23 there's anything -- anything really further here than what we  
24 saw in our motions to dismiss. And so given the higher  
25 standards of proving his claims, I don't believe that

MAOHKarC

1 Mr. Karupaiyan will be able to meet those higher standards, be  
2 able to sustain his burden on summary judgment on the vast  
3 majority of his claims. So I agree with Mr. Zoldessy.

4 THE COURT: What do you believe -- and I'm not saying  
5 I'm going to agree with you ultimately -- but what do you  
6 believe discovery has shown about Mr. Karupaiyan's employment  
7 status? Who is his employer?

8 MS. GILROY: Karupaiyan Consulting.

9 THE COURT: I'll be right there with you, sir. They  
10 are the ones who want to make the motion, so I want to talk to  
11 them first, and then I'm talking to you. Thank you.

12 All right. So Karupaiyan consulting, is that a  
13 one-man business? Are there others who are involved in it?

14 MS. GILROY: According to what we've learned in  
15 discovery, Karupaiyan Consulting Inc. was a company that was  
16 incorporated by Mr. Karupaiyan's sister, and Mr. Karupaiyan was  
17 the sole employee.

18 THE COURT: Ms. Gilroy, you heard me speaking to  
19 Mr. Zoldessy about the battery claim and about the City Human  
20 Rights Law claim, which I think has a different standard. Why,  
21 if you do believe that these claims will also be amenable to  
22 disposition on summary judgment, do you believe that?

23 MS. GILROY: So I agree with Mr. Zoldessy that even on  
24 a lower standard for the city claims and the state claims, I  
25 don't believe Mr. Karupaiyan has adduced sufficient evidence to

MAOHKarC

1 surpass those standards. I do think we probably have -- I do  
2 also agree with Mr. Zoldessy that the battery claim may have a  
3 closer issue, and we haven't really discussed that extensively.  
4 That may be, in fact, a question of fact, which then the  
5 question remains whether the Court retains that claim for  
6 adjudication.

7 THE COURT: Yes. We'll see what you're asking me to  
8 do when the motion is otherwise filed.

9 Mr. Zoldessy has been before me enough times to know  
10 that I always ask this question. Are you hell-bent on filing  
11 this motion?

12 MS. GILROY: I think filing the motion makes the most  
13 sense from the perspective of the finality and resolution of  
14 the case.

15 THE COURT: All right. Mr. Zoldessy, the same  
16 question?

17 MR. ZOLDESSY: I agree, your Honor.

18 THE COURT: All right. That's a "yes" to my question?

19 MR. ZOLDESSY: Yes, your Honor.

20 THE COURT: That's fine.

21 Mr. Karupaiyan, I don't know that you and I have  
22 spoken about summary judgment motions. We may have early on in  
23 the case, but what summary judgment motions are is when the  
24 moving party, in this case the defendants, say that based on  
25 everything that was produced in discovery, they believe that

MAOHKarC

1 your claim should not go to a jury trial. They believe that  
2 your claim can be resolved short of a jury trial.

3 So what they've said to me, in particular, is that the  
4 evidence in this case suggests that you were employed by an  
5 entity called Karupaiyan Consulting, and they think that as a  
6 result of that you wouldn't be their employee, you'd be an  
7 employee of Karupaiyan Consulting, and that that might have  
8 some impact on the employment claims that you bring.

9 I'm not going to ask you about the battery claim, sir,  
10 because I don't really think that's something that's going to  
11 be resolved in summary judgment. But let me ask you this: Is  
12 there an entity called Karupaiyan Consulting? Just is that an  
13 actual business that exists somewhere in the world?

14 MR. KARUPAIYAN: Yes.

15 THE COURT: Yes. Is that a business that was formed  
16 by your sister, sir?

17 MR. KARUPAIYAN: Yes, sir -- yes, ma'am.

18 THE COURT: Were you ever employed by Karupaiyan  
19 Consulting?

20 MR. KARUPAIYAN: I'm independent employee.

21 THE COURT: You were what, please, sir?

22 MR. KARUPAIYAN: Independent contractor, independent  
23 employee.

24 THE COURT: A limited employee?

25 MR. KARUPAIYAN: Independent.

MAOHKarC

1           THE COURT: Independent employee. I beg your pardon.  
2 Excuse me, sir. Sorry. I told you the acoustics in the  
3 courtroom are quite poor.

4           So you were an independent contractor, yes?

5           MR. KARUPAIYAN: Yes.

6           THE COURT: So did Karupaiyan Consulting -- did you  
7 ever sign any agreements with them?

8           MR. KARUPAIYAN: No, ma'am.

9           THE COURT: No. Did you perform services for  
10 Karupaiyan Consulting?

11          MR. KARUPAIYAN: My service provided to this  
12 defendants.

13          THE COURT: Services provided to these defendants.

14          MR. KARUPAIYAN: (Nods head.)

15          THE COURT: I see.

16          MR. KARUPAIYAN: The service contract says I'm  
17 independent contractor. The service contract I provided by  
18 APN, it says I am independent contractor.

19          THE COURT: It stated that you were an independent  
20 contractor. OK. That's interesting, because to me an  
21 independent contractor is something that one distinguishes from  
22 being an employee.

23          So you're saying, sir, that you were an independent --  
24 you said to me earlier you were an independent employee. If I  
25 use the term "independent contractor," does that mean the same

MAOHKarC

1 thing to you?

2 MR. KARUPAIYAN: Sorry. I don't understand. Ask the  
3 question again.

4 THE COURT: Of course. I'll even step back a few  
5 paces.

6 You've said to me you were not an employee of  
7 Karupaiyan Consulting, is that correct?

8 MR. KARUPAIYAN: Yes, I'm independent.

9 THE COURT: You're independent, meaning you work for  
10 yourself?

11 MR. KARUPAIYAN: Yes.

12 THE COURT: Why I'm asking that question is that  
13 sometimes there's a distinction made between people who are  
14 employees of a particular company and people who are  
15 independent contractors, which may be what you're saying when  
16 you refer to yourself as an independent employee.

17 When I hear that term, what that means to me is that  
18 that person is sort of working for themselves, working for  
19 their own business entity.

20 Did you work for yourself, sir?

21 MR. KARUPAIYAN: Judge, to work independent, there is  
22 no need of a business. For example, people work independent,  
23 they receive 1099.

24 THE COURT: OK. But when you were working -- was it  
25 your view, sir, that as an independent employee, when you went

MAOHKarC

1 to work for a company, you became an employee of that company?

2 MR. KARUPAIYAN: If I'm employee, I should be paid in  
3 W-2.

4 THE COURT: OK. Now we're with the W-2. OK.

5 MR. KARUPAIYAN: If the company provide me any  
6 benefit, it should be available to me.

7 THE COURT: All right. But --

8 MR. KARUPAIYAN: Those are the things that didn't  
9 happen in the Karupaiyan Consulting.

10 THE COURT: When --

11 MR. KARUPAIYAN: I was not paid at all for Karupaiyan  
12 Consulting for the service provided by me.

13 THE COURT: I'm sorry, sir. I apologize. I'm not  
14 able to hear you. I'm going to ask you to speak a little  
15 slower and a little bit louder. Thank you.

16 MR. KARUPAIYAN: Karupaiyan Consulting did not pay me  
17 at all. Did not give me any benefit at all. So I am  
18 independent employee to the Karupaiyan Consulting, and this is  
19 different than them too. Also for the defendant I am  
20 independent contractor.

21 THE COURT: OK. Hang on a second. I think I  
22 understand what you're saying. But you weren't paid, and that  
23 was part of the whole reason why this complaint was brought,  
24 because you weren't paid for the work that you did.

25 Was the idea that the payments were going to be made

MAOHKarC

1 by CVS or by APN -- well, who was going to? Was CVS going to  
2 pay APN and APN was going to pay you? Was that the way it was  
3 going to work?

4 MR. KARUPAIYAN: APN is going to pay Karupaiyan  
5 Consulting. Karupaiyan Consulting going to pay me.

6 THE COURT: Right.

7 MR. KARUPAIYAN: So APN did not pay me at all.  
8 Karupaiyan Consulting -- Karupaiyan Consulting did not pay me.

9 THE COURT: OK. If everything had worked out as it was  
10 supposed to, Karupaiyan Consulting was going pay you?

11 MR. KARUPAIYAN: Yeah, Karupaiyan Consulting going to  
12 pay me, but it pay me 1099.

13 THE COURT: Whether it was 1099 or a W-2, I  
14 understand.

15 MR. KARUPAIYAN: I'm independent contractor, yeah,  
16 independent employee.

17 THE COURT: You were an independent contractor or an  
18 independent employee, but you were expecting when you started  
19 that you were going to receive money somehow --

20 MR. KARUPAIYAN: Yes.

21 THE COURT: -- from Karupaiyan Consulting, yes?

22 MR. KARUPAIYAN: Yes.

23 THE COURT: Yes. And what was going to happen was CVS  
24 was going to pay APN, yes?

25 MR. KARUPAIYAN: Yes.

MAOHKarC

1           THE COURT: APN was going to pay Karupaiyan  
2 Consulting, also yes?

3           MR. KARUPAIYAN: Yes.

4           THE COURT: Karupaiyan Consulting was going to pay  
5 you?

6           MR. KARUPAIYAN: Yeah.

7           THE COURT: OK. I understand that.

8           But your problem is that you didn't get paid by  
9 anybody. You didn't get paid by CVS or by APN or by Karupaiyan  
10 Consulting or by anybody for the work that you did?

11          MR. KARUPAIYAN: Yes.

12          THE COURT: OK. I understand that.

13          Now, just to go back to my -- a few moments ago, the  
14 way this was supposed to work is that Karupaiyan Consulting was  
15 going to pay you. Was there an agreement that either  
16 Karupaiyan Consulting had with APN for your payment -- for  
17 payment or that you had with Karupaiyan Consulting?

18          You just told me how the money was supposed to flow.  
19 Was there a document or documents that set forth how the  
20 payments were going to be paid?

21          MR. KARUPAIYAN: Between Karupaiyan Consulting and me,  
22 there is no document. There is a document between Karupaiyan  
23 Consulting and the APN. It says I'm an independent contractor.

24          THE COURT: Got it. I do understand that. Thank you.  
25          I don't want to put words in your mouth, sir, but let

MAOHKarC

1 me just ask this question: Is it your view that because you  
2 didn't get paid at all, that you have a right as against APN  
3 for the nonpayment of money and as against CVS for the  
4 nonpayment of money because somebody should have paid you, is  
5 that fair?

6 MR. KARUPAIYAN: That's right, Judge. I'm -- similar  
7 thing in the past happened. One of my employer did not pay me.  
8 So the one employer above me in the chain, contracting chain,  
9 they pay me directly. I was working in the Tyson Food.

10 THE COURT: Hold on. Going to ask you to just slow  
11 down and repeat yourself again. Thank you, sir.

12 MR. KARUPAIYAN: I was working at the Tyson Food in  
13 Arkansas. The contractor hold my work permit visa, he run out  
14 of business. So the Tyson Food directly make arrange -- pay  
15 the payment arrangement to me. Somebody in the middle of --  
16 middle of the contractor chain went out of business. I have to  
17 be paid. The Karupaiyan Consulting is not in the business  
18 right now. The APN need to pay me or CVS needs to pay me.

19 THE COURT: Now, there were discussions -- and I'm  
20 going to ask the folks at the back table about those in just a  
21 moment just a minute -- about whether there is money owed to  
22 you.

23 So Karupaiyan Consulting is your sister's company, is  
24 that correct?

25 MR. KARUPAIYAN: Yes, yes.

MAOHKarC

1           THE COURT: OK. And is it fair -- again, if you'd  
2 prefer not to answer it, just say that you don't want to answer  
3 it -- is it fair to say that at some point in your work for  
4 CVS, your work for them, that you asked your sister, hey, has  
5 anybody paid me anything? And is it fair to say your sister  
6 told you no payments ever came in for the work that you did?

7           MR. KARUPAIYAN: Yes, no money come.

8           THE COURT: All right. Thank you.

9           Mr. Zoldessy, I thought in the letter -- and perhaps  
10 if this is better handled by Ms. Gilroy, you'll let me know --  
11 but there was discussion about -- I believe there was  
12 discussion of Mr. Karupaiyan's letter about attempts to pay him  
13 the outstanding wages.

14           Would one of you, the one of you who has more  
15 knowledge of this, speak to me, please, about what was supposed  
16 to happen in your estimation. He's just told me what he  
17 thought was going to happen. I want to hear from you what you  
18 thought was going to happen and why he didn't get paid.

19           MR. ZOLDESSY: I think it's probably best directed to  
20 me, your Honor.

21           THE COURT: Go ahead, Mr. Zoldessy.

22           MR. ZOLDESSY: Your Honor, I agree with  
23 Mr. Karupaiyan's description of what the chain of payment was  
24 supposed to be. I guess the one caveat is that I'm not sure  
25 what arrangement Mr. Karupaiyan might have had with Karupaiyan

MAOHKarC

1 Consulting, but APN's agreement was with Karupaiyan Consulting,  
2 which provided for payment by APN to Karupaiyan Consulting.

3 And this came up, I believe, during a prior  
4 conference, but the issue was that during the summer of 2019  
5 when this was occurring, APN had sent checks for the invoices  
6 provided by Karupaiyan Consulting, at least for the first  
7 couple of invoices provided, for the stated amounts, and they  
8 were being returned to APN consulting as undeliverable.

9 We had produced a copy in discovery of some of these  
10 envelopes which were returned by the post office as being  
11 undeliverable, and APN had reached out at the time to  
12 Mr. Karupaiyan attempting to get a new forwarding address for  
13 him, because that was an ongoing issue as far as we're --  
14 trying to figure out where to send things to him for, and there  
15 was never a clear answer provided.

16 I know that Mr. Karupaiyan's preference was to be paid  
17 by direct deposit or some sort of electronic payment at the  
18 time, which was not something that was offered. There was also  
19 an issue at the time that there were a couple of invoices --

20 THE COURT: Please stop a moment, please. APN did not  
21 offer direct deposit payment?

22 MR. ZOLDESSY: Back in 2019, my understanding is  
23 that's correct, they were not paying anyone by direct deposit.

24 THE COURT: I see.

25 MR. ZOLDESSY: But they were making an effort to

MAOHKarC

1 provide checks to Mr. Karupaiyan, and also I believe there were  
2 a couple of invoices or a couple of time sheets for invoices  
3 that they were trying to obtain from him.

4                 But skipping ahead, there's no dispute that  
5 Mr. Karupaiyan -- or Karupaiyan Consulting, rather, never  
6 cashed checks from APN. There were efforts made to find out  
7 how to get payment to them.

8                 THE COURT: Just pause a moment again, please, sir.

9                 They never cashed, but some of those -- obviously,  
10 they couldn't cash a check that had been returned as not  
11 deliverable. Were there any checks that were delivered?

12                 MR. ZOLDESSY: I don't believe that there were.

13                 THE COURT: So it's not a shock that they didn't cash  
14 any checks, because they didn't get any checks to cash.

15                 OK. What I'm hearing you say, and what hopefully the  
16 evidence is going to support, because I'll be sad if I'm being  
17 lied to, is that there were efforts made to work this out  
18 because these checks, they kept getting returned, and there was  
19 a recognition that Mr. Karupaiyan or Karupaiyan Consulting was  
20 owed money?

21                 MR. ZOLDESSY: Correct, your Honor.

22                 THE COURT: OK.

23                 MR. ZOLDESSY: I know earlier on in the case also we  
24 had tried to get current mailing addresses from Mr. Karupaiyan.  
25 It was a struggle for us. I think it was a struggle for the

MAOHKarC

Court. Candidly, regarding this issue, I guess there was probably no discussion about it for a while until plaintiff's deposition was approaching, until we had discussions with my client that, look, we're going to be seeing Mr. Karupaiyan. We want to have a check for him to put this issue to bed once and for all?

My client provided -- overnighted to me a check made payable to Karupaiyan Consulting for what I believe is the undisputed amount which was owed to Karupaiyan Consulting for any of the services provided. We had that check available at Mr. Karupaiyan's deposition. We spoke with his attorney at the deposition about this, encouraging Mr. Karupaiyan to take it. At first there was some resistance from Mr. Karupaiyan that he'd be compromising claims or releasing some, and we put on the record, look, this is being offered to you no strings attached. We're not asking you to waive, release anything. Nothing's changing with the claims here you're asserting in court. We're not asking you to sign any paperwork for it. Here's the check, Mr. Karupaiyan. Please take it.

And we spoke off the record with his attorney as well about it, and I think at one point there was an agreement that morning while we were on the record that Mr. Karupaiyan was taking the check and that would resolve this issue. Unfortunately, we got back from the lunch break during the deposition, and Mr. Karupaiyan's attorney approached Ms. Gilroy

MAOHKarC

1 and I, approached and said that Mr. Karupaiyan was unwilling to  
2 take the check after all because he was concerned that he  
3 wouldn't be able to do anything with it because Karupaiyan  
4 Consulting no longer exists or no longer maintains a bank  
5 account, and he would not be able to cash it.

6 THE COURT: It is in the name of Karupaiyan  
7 Consulting, and at this time there was not an offer made to put  
8 it in his name or to give it to him in cash or to give it to  
9 him in -- right, I understand that.

10 MR. ZOLDESSY: That's correct.

11 THE COURT: And that's where things stood.

12 MR. ZOLDESSY: I guess the way we -- the last  
13 discussion at the deposition, we said we would confer with --  
14 withdrawn. Let me start over.

15 THE COURT: Thank you.

16 MR. ZOLDESSY: Mr. Karupaiyan did make the request  
17 that the check be made payable to him individually, and we had  
18 said we would confer about that, we would speak with his  
19 attorney. I had discussions with Ms. Gilroy after the  
20 deposition, and I think there was a mutual decision that was  
21 made, especially given that Mr. Karupaiyan represented during  
22 his deposition that it was his sister who was really the  
23 principal and rightful payee perhaps on behalf of Karupaiyan  
24 Consulting that we were hesitant to just send a check or direct  
25 deposit or ACH money to Mr. Karupaiyan individually out of

MAOHKarC

concern that that would turn out to not actually resolve claims brought by Mr. Karupaiyan for moneys allegedly owed to Karupaiyan Consulting.

Taking this one step further, your Honor, to the extent this changes anything, if Mr. Karupaiyan has reconsidered, I still have the check right with me. If Karupaiyan Consulting is able to accept a check or, in the alternative, with the proper representations on the record and with your Honor's assistance, if Mr. Karupaiyan is able to represent that he's authorized to receive this money on behalf of Karupaiyan Consulting and that this will resolve this issue, my client -- I spoke with him Friday afternoon -- will expedite a check to Mr. Karupaiyan this week made payable to him individually. It's just we were concerned about doing this outside of court out of fear that this issue would still come back that we never actually paid Mr. Karupaiyan -- that we never paid Karupaiyan Consulting as per the contractor agreement.

THE COURT: Understood. Thank you.

Mr. Karupaiyan, to the best of your knowledge, does Karupaiyan Consulting today exist as a company?

MR. KARUPAIYAN: No, ma'am, it's closed.

THE COURT: They are closed.

And they no longer have any bank accounts?

MR. KARUPAIYAN: No, no longer has bank accounts. No

MAOHKarC

1 more in the business.

2 THE COURT: They have nothing?

3 MR. KARUPAIYAN: (Shakes head.)

4 THE COURT: All right. Does your sister have a  
5 different business?

6 MR. KARUPAIYAN: No.

7 THE COURT: You've just heard me speaking with  
8 Mr. Zoldessy right now. He has a check made out to Karupaiyan  
9 Consulting, but you're telling me that's not useful because  
10 there is no one who can deposit that check?

11 MR. KARUPAIYAN: That's right.

12 THE COURT: All right.

13 MS. GILROY: If I might, your Honor?

14 THE COURT: Please, Ms. Gilroy.

15 MS. GILROY: Karupaiyan Consulting still does exist as  
16 a viable entity, at least from the state of New Jersey's  
17 perspective. It is a registered entity. It has not been -- it  
18 has not been dissolved in accordance with state law, so it  
19 still exists under the state of New Jersey's -- from the state  
20 of New Jersey's perspective. No paperwork has been filed,  
21 however, for several years. So that was part of the concern  
22 Mr. Zoldessy and I had about paying Mr. Karupaiyan when the  
23 entity still does exist.

24 THE COURT: You're not disputing if he represents to  
25 us --

MAOHKarC

1 MS. GILROY: Correct.

2 THE COURT: -- it's not doing any business and there  
3 isn't a bank account with its name on it, there's no office for  
4 it, you're not surprised or you're not disputing that. Your  
5 point is the business -- there's still an extant company that  
6 has the name Karupaiyan Consulting?

7 MS. GILROY: There is still a company. It is the  
8 company formed by Mr. Karupaiyan's sister.

9 THE COURT: OK.

10 MS. GILROY: It does still exist at least, again, from  
11 a state perspective purely. So to the extent there may be  
12 creditors of that company that are owed money or anything along  
13 those lines, the concern was making payment to Mr. Karupaiyan  
14 would put us in the -- essentially in the line of fire.

15 THE COURT: Of course. No, no, and I understand that.

16 I'll talk to you in just a moment, sir.

17 No, I understand that, and there's nothing to say that  
18 Ms. Karupaiyan could not tomorrow go set up a bank account in  
19 the name of Karupaiyan Consulting --

20 MS. GILROY: Correct.

21 THE COURT: -- to which this check could be -- and the  
22 check could be forwarded to her right away. OK. I understand  
23 that.

24 So, Mr. Karupaiyan, I've been listening to the folks  
25 at the back table talk about the issue. Their concern is

MAOHKarC

1       they'd give you the check to Karupaiyan -- well, if you were  
2       authorized to receive it, they would give a check to Karupaiyan  
3       Consultants, but you've just explained that right now, today  
4       there's no bank account for that company, and so the check  
5       would just -- no one would be able to negotiate it.

6            MR. KARUPAIYAN: Right. Also, they say that the  
7       company's in existence. I am not sure. When we filed the loss  
8       to -- to file tax return, no more the company -- when we filed  
9       the state tax return, I think Form 941 or 921, when we file, we  
10      file for -- check the mark saying that the business is no more,  
11      no more active. So there is no point of the company acting in  
12      state.

13           THE COURT: What I believe Ms. Gilroy is saying is  
14      even if you have told tax authorities that the business is no  
15      longer a going concern, from the state of New Jersey's  
16      perspective, it is not a dissolved company. It's not a defunct  
17      company. It still is an extant company. It still is an active  
18      company even if it's not doing anything. So the concern would  
19      be that were they to reissue the check in your name, we don't  
20      have your sister here today to say: Go ahead, give it to him.  
21      I'm not going to bring any -- I tell you on the record that I'm  
22      not going to bring any action against them for this payment.

23           So that's what we need. We need some assurance that  
24      you're authorized to receive these funds, that these were the  
25      funds that Karupaiyan Consulting was going to pay to you, and

MAOHKarC

1 that your sister, both individually and as the sole  
2 representative of the company, is disclaiming any right that  
3 she has or that the company has to that payment. She's not  
4 here, so she can't make that representation.

5 Perhaps she could. That's a thing that you all could  
6 work on if you wanted to. You could work with, I imagine --  
7 and, Ms. Gilroy, you might disagree with me -- but if  
8 Ms. Karupaiyan came forward and said, yes, I could start up  
9 this company if I wanted to, but I don't. I'm not going to  
10 make a claim on this money. This is money that I would have  
11 immediately paid over to my brother. You can give it to him  
12 and I release any claims I might have, would that be acceptable  
13 to you?

14 MS. GILROY: The check is not coming from my client,  
15 but I don't see why that would be unacceptable, particularly  
16 with the Court's involvement. The check is coming from APN.

17 MR. ZOLDESSY: Under those circumstances, your Honor,  
18 I would advise my client to promptly issue the check.

19 THE COURT: Right. So, I mean, again,  
20 Ms. Karupaiyan's not here, but, Mr. Karupaiyan, if you and she  
21 ever wanted to get on a telephone conference with me and with  
22 the two defense counsel to work through that issue, I would  
23 talk to her just like I'm talking to you right now. And  
24 depending on what her answers were, then perhaps -- let me ask  
25 you this, Mr. Karupaiyan: Ultimately, you want the check to be

MAOHKarC

1 issued to you individually, correct?

2 MR. KARUPAIYAN: I can take it. Yeah, I need money.  
3 I don't have a place to live. I need to rent a place. I need  
4 to go through medical treatments. My fingers are bulging.

5 THE COURT: I'm sorry about your finger. Yes, so if  
6 ever you and your sister reach out to defense --

7 MR. KARUPAIYAN: My sister is in India. She doesn't  
8 speak English. She does not have phone. I need to call her  
9 and talk to her through his -- I need to call her son. He need  
10 to do give the phone to her and talk to her. Her visa is  
11 expired. I don't think she can come back here very soon. My  
12 sister is in India right now.

13 THE COURT: Yes, I understand that. Did you say she  
14 doesn't speak English?

15 MR. KARUPAIYAN: Doesn't speak English.

16 THE COURT: But she still set up this company in New  
17 Jersey?

18 MR. KARUPAIYAN: I helped her to set up the company.

19 THE COURT: So I guess I'm surprised that she had this  
20 involvement in the company if she had no idea what was going  
21 on.

22 MR. KARUPAIYAN: She knows. She signs the papers.  
23 She signed the bank account, opened the bank account, yeah.

24 THE COURT: Sir, she signed the paperwork for this  
25 company, yes?

MAOHKarC

1 MR. KARUPAIYAN: Yes.

2 THE COURT: Was she able to read what she signed?

3 MR. KARUPAIYAN: Not -- not really.

4 THE COURT: Oh, that's not good. OK. All right.

5 Look, this may pose a problem for you, but I am not  
6 going to suggest to the folks at the back table that they issue  
7 a check to you when the contract was with Karupaiyan  
8 Consulting. So that's where we are. If she wants to get  
9 involved, if your sister wants to get involved to help you  
10 bridge this gap, I can have a phone conference with all of you  
11 on the phone, and I can ask her questions. But I'd have to be  
12 able to talk to her.

13 MR. KARUPAIYAN: I can make arrangements, but I don't  
14 think she can speak in English.

15 THE COURT: Well, then that's probably going to end  
16 the -- that's going to be very difficult for me to speak to her  
17 about this, but all right.

18 MR. KARUPAIYAN: Again, she's in India. She does not  
19 have phone right now. I need to call her son and make the  
20 arrangements.

21 THE COURT: But, again, I'm not going to speak to her  
22 unless I have some confidence that I can be able to speak to  
23 her. The alternative, sir, perhaps -- Mr. Zoldessy, would your  
24 client accept a sworn statement, a notarized statement from  
25 Ms. Karupaiyan that the entity is no longer conducting

MAOHKarC

operations and that she would disclaim and on behalf of the company would disclaim any rights to these funds? I don't know.

MR. KARUPAIYAN: I can offer affidavit from my sister saying that they can directly pay me.

THE COURT: Well, the issue, sir, is if your sister doesn't speak English --

MR. KARUPAIYAN: She can get affidavit. She can sign affidavit in India. It's not difficult.

THE COURT: Sure. But who's writing this document?

MR. KARUPAIYAN: The notaries are attorneys in India. They will help the -- in India the notaries are attorneys.

THE COURT: Yes. No, I understand that, sir. My point is a different one. What is this document -- what language is this document going to be written?

MR. KARUPAIYAN: They --

THE COURT: Stop cutting me off, sir.

What language is document going to be written in?

MR. KARUPAIYAN: Written in either language. They can interpret it and notary will sign the interpretation.

THE COURT: I don't know if that's something the folks at the back table would accept. I don't know if they'd accept a note -- a document that's been notarized and then translated by a certified translator. But the point is they need some comfort that your sister is not going to come after them for

MAOHKarC

1       this money at some later date. If you want to propose language  
2       to them or if the folks at the back table want to propose  
3       language to you that they would accept, then maybe this will  
4       work.

5           But I'm taking your point, sir, which is that your  
6       sister doesn't speak English very well, and I think that would  
7       make her very uncomfortable speaking with me, and I do  
8       understand that. But that's the impasse where we are with  
9       respect to the check issue. I understand both sides of it.  
10      I'll hear from you folks when there's some movement that's been  
11     made by someone, whether that's a written submission that's  
12     acceptable from Ms. Karupaiyan, whether that's filing  
13     another -- or opening up another bank account in the name of  
14     Karupaiyan Consulting, or something else, or a phone call where  
15     I can speak to everyone. I understand that's where the issue  
16     is.

17           Let me please just go back a little bit, because  
18       before I got you all sidetracked on the issue of the payments,  
19       there was a question about a summary judgment motion. So it  
20       would appear that I am unable to persuade you not to file a  
21       summary judgment motion.

22           Let me please ask, these would be two separate  
23       motions, correct, counsel?

24           MS. GILROY: I think it would have to be, your Honor.

25           THE COURT: OK. That's what I feared.

MAOHKarC

1 MS. GILROY: Unfortunately.

2 THE COURT: No, no, no, that's fine. Can I have the  
3 opening briefs December 2, or is that -- I don't know what's  
4 going on in your corners of the world, so you have to tell me.

5 Oh, no, hold on. You're about to tell me it's too  
6 soon, Kate, because you have things to do at the end of the  
7 month of November. So let's try that again.

8 December 29, or will I wreck someone's holidays,  
9 opening briefs on the 29th?

10 MR. ZOLDESSY: That's fine for APN defendants.

11 THE COURT: OK. And for the CVS defendants?

12 MS. GILROY: I do believe that will be fine, your  
13 Honor. I have an arbitration that was supposed to go forward  
14 in two weeks that is currently in flux because of an expert  
15 issue in that case, and I know we're looking at early December  
16 for that as a potential date, but I don't know that that's  
17 going to fly. So I believe the 29th should work.

18 THE COURT: Start writing now. Thank you very much.

19 Let me then, Mr. Karupaiyan, I would like from you  
20 one -- so this is going to be very similar to the motions to  
21 dismiss. They will each file a brief. They will probably file  
22 some declarations, which are sworn statements. They'll  
23 probably file some exhibits. They'll file something called a  
24 56.1 statement which lists the facts that they believe are not  
25 in dispute. I'm going to ask the parties, if at all possible,

MAOHKarC

1 to have your statements follow each other in sequence so that  
2 there isn't a CVS paragraph 1, APN paragraph 1. If it can be  
3 done. If it can't, you'll tell me. But that would be  
4 preferable for me. Or perhaps here's a thought. Perhaps one  
5 of you could start at the number 1 and the other of you could  
6 start at like number 500 or a number that we're never going to  
7 get to so that there's not a duplication of numbers.

8 And then I will like from Mr. Karupaiyan a single  
9 response, response to both of them, but I'll give you more  
10 time, sir, and I'll also give you more space. I'm expecting  
11 and hoping that the defense counsel will you be able to get  
12 theirs done in 25 pages of briefing.

13 MS. GILROY: Inclusive of the 56.1 statement?

14 THE COURT: No, no, that's a separate document.

15 MS. GILROY: OK.

16 THE COURT: But the memorandum of law should be 25  
17 pages.

18 MS. GILROY: OK, your Honor.

19 THE COURT: And don't put it all in footnotes, because  
20 I will send it back to you.

21 So, Mr. Karupaiyan, I would give you 40 pages to  
22 respond because I don't think you're going to need exactly  
23 double. There's a lot of things that are going to be the same.  
24 And I'm going to give you, sir, until -- hold on please --  
25 February 17.

MAOHKarC

1           And then if I could please have the reply briefs --  
2 I'll give you a little bit of extra time just in case there are  
3 problems getting things -- the 10th of May, please.

4           MR. ZOLDESSY: March?

5           THE COURT: March. I actually said that, too. Yes, I  
6 was looking, what is the third month of the year?

7           MS. GILROY: I'm sorry. Say that date again, your  
8 Honor.

9           THE COURT: Thank you. I have May on the brain. I  
10 beg your pardon. My deputy gave me that look as well.

11           May I ask, please, that defendants give to  
12 Mr. Karupaiyan, whether electronically or in paper form, any  
13 authority that you cite in your briefs, any case that you cite.  
14 So I'll let you make arrangements whether you're emailing it to  
15 him or giving him a lot of paper.

16           MS. GILROY: I don't think we have anywhere to mail  
17 paper, your Honor, so it would have to be electronic.

18           THE COURT: That's right.

19           Mr. Karupaiyan, let me confirm, at this time, sir, it  
20 is still your wish that everything be served on you  
21 electronically?

22           MR. KARUPAIYAN: It's preferable. That is preferred.

23           THE COURT: OK. Then that's what it will be. It will  
24 be served electronically.

25           Just one moment, please, counsel and Mr. Karupaiyan.

MAOHKarC

All right. So the replies, I'm thinking no more than 15 pages, please, for the replies. So we're going to do 25 pages in the opening, a 40-page joint opposition, 15 pages on the replies. I'm fine if you go under 15 pages. Thank you.

Those were the issues I wanted to address with the parties today. Mr. Karupaiyan, anything else to address today, sir?

MR. KARUPAIYAN: No. What date will be the reply in March?

THE COURT: The reply date is March 10. And I'm sorry that I said May, because that gave them several months. March 10.

May I please ask one of counsel to please get a transcript of this conference. I'll let you fight it out afterwards as to who. And please send a copy to Mr. Karupaiyan when you receive it. Thank you.

Mr. Zoldessy, anything else to address with me today, sir?

MR. ZOLDESSY: Not today, your Honor. Thank you.

THE COURT: I thank you as always.

Ms. Gilroy, anything else today?

MS. GILROY: No, your Honor. Thank you.

THE COURT: All right. Feel better. Thank you.

We are adjourned. Thank you all very much.

(Adjourned)